

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

<u>IN RE SULFURIC ACID</u>)	MDL Docket No. 1536
<u>ANTITRUST LITIGATION</u>)	Case No. 03 C 4576
)	
)	Honorable Judge James F. Holderman
<u>This Document Relates To:</u>)	Magistrate Judge Jeffrey Cole
<u>All Actions</u>)	

**NOTICE OF CLASS ACTION
SETTLEMENT WITH THE PVS DEFENDANTS**

To: All Persons and Entities (Excluding Federal, State, and Local Governmental Entities and Political Subdivisions, the Defendants, and their Respective Parents, Subsidiaries and Affiliates) Who Purchased Sulfuric Acid in the United States Directly From E. I. du Pont de Nemours and Company, Norfalco LLC, Noranda Inc., Noranda DuPont LLC, Falconbridge Ltd., Pressure Vessel Services, Inc., PVS Chemicals, Inc. (Ohio), PVS Chemical Solutions, Inc., PVS Nolwood Chemicals, Inc., GAC Chemical Corporation, Marsulex, Inc., Chemtrade Logistics (U.S.), Inc., Intertrade Holdings, Inc., Koch Sulfur Products Company, Koch Sulfur Products Company, LLC (“Defendants”) from and Including January 1, 1988, to January 16, 2003 (“Class Period”).

For Purposes of this Litigation, “Sulfuric Acid” Refers to Non-Fuming Sulfuric Acid (Chemical Formula: H₂SO₄) Which Is, for Illustration Purposes (Although Not Exclusively), Commonly Sold at Strengths of 93% and 98%. It Does Not Include Spent Regenerated or Florida Fertilizer Sulfuric Acid.

PLEASE READ THIS ENTIRE NOTICE CAREFULLY. YOUR LEGAL RIGHTS MAY BE AFFECTED BY LAWSUITS NOW PENDING IN THIS COURT.

This Notice is given pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Northern District of Illinois. The purpose of this Notice is to inform you that a proposed settlement has been reached between the Plaintiff Class and the PVS Defendants for \$750,000. “PVS Defendants” are four related privately held corporations under common ownership and control: Pressure Vessel Services, Inc., PVS Chemicals, Inc. (Ohio), PVS Nolwood, Inc. and PVS Chemical Solutions. This is a settlement with the PVS Defendants only and does not impact the rights or liabilities of any other Defendant.

BACKGROUND OF THE LITIGATION

This class action was commenced in 2003. Plaintiffs allege that certain manufacturers of sulfuric acid agreed, in violation of the federal antitrust laws, to restrict output and raise prices of sulfuric acid sold to their customers in the United States. The Class Period certified by the Court is January 1, 1988, through January 16, 2003. This Notice is sent to you because Defendants' records indicate you are or may be a Member of the Class.

Defendants denied the allegations of the Complaint, and answered they did not violate any laws.

In 2006, Defendant DuPont settled with the Class for \$5,000,000, and notice of this settlement was sent to Class Members. In 2007, the Court certified the Class of Plaintiffs who had purchased sulfuric acid directly from one or more of the Defendants listed at the beginning of this Notice. In 2008, Defendants Marsulex/Chemtrade settled with the Class for \$1,125,000, and notice of this settlement was sent to Class Members.

In September 2010, the Court ruled upon Defendants' motions for summary judgment. The Court denied those motions in substantial part and the matter was set for a jury trial.

As a result of subsequent rulings by the Court relating to the liability standard to be used at trial with which Class Counsel disagreed, the Court ultimately entered final judgment in favor of all Defendants in December 2011. Class Counsel then took an appeal. That appeal is pending before the United States Court of Appeals for the Seventh Circuit.

In that posture, the PVS Defendants agreed to settle the case with the Class for \$750,000. The settlement was reached with the assistance of a mediator from the Court of Appeals, who held extensive conferences with the PVS Defendants and Class Counsel. The settlement is not dependent upon the outcome of the appeal. In other words, even if the Court of Appeals affirms the final judgment in favor of all Defendants, the Class will still receive this settlement amount.

SUMMARY OF PROPOSED SETTLEMENT WITH THE PVS DEFENDANTS

Cash Terms

The PVS Defendants have placed the full settlement amount of \$750,000 on deposit with Class Counsel in escrow. The Settlement Agreement provides that up to \$50,000 may be paid out of the Settlement Fund for reasonable expenses associated with providing notice of the settlement to the proposed Class and expenses associated with administering the Settlement Fund (including claims administrator and bank fees).

If the Settlement Agreement with the PVS Defendants is approved by the Court, the settlement sum, plus accruing interest, net of any litigation expenses, attorney fees, and any other disbursements that may be allowed by the Court will be available for distribution to Class Members in proportion to their direct purchases of Sulfuric Acid in the United States during

the Class Period, pursuant to a plan of distribution to be submitted to the Court at the conclusion of the litigation.

Cooperation

In addition to paying the settlement amount, the PVS Defendants have agreed to provide certain cooperation to Plaintiffs' Counsel, in the event the Court of Appeals reverses the final judgment and remands for trial. This cooperation relates to the admissibility of documents and interviews with proposed witnesses.

Release

The Settlement Agreement provides for Plaintiffs and Class Members to release and discharge the PVS Defendants as follows:

Upon the occurrence of the Effective Date and in consideration of payment of the Settlement Amount, as specified in Section D of this Agreement, and for other valuable consideration, the Releasees shall be completely released, acquitted, and forever discharged from any and all claims, demands, actions, suits, proceedings and causes of action, whether class, individual, or otherwise in nature, that Releasors, or each of them, whether directly, indirectly or otherwise, representatively, derivatively, as a successor, member, or owner, or in any other capacity, ever had, now has, or hereafter can, shall, or may have, on account of or arising out of the Alleged Conduct, and causes of action asserted, or that could have been alleged and asserted based on the Alleged Conduct, in the cases that have been coordinated in the Action, from the beginning of time to the Effective Date of this Agreement (hereinafter, the "Released Claims"). Nothing in this Agreement shall settle or compromise any claims by purchasers not located in the United States who purchased Sulfuric Acid outside the United States or claims made by indirect purchasers of Sulfuric Acid. Releasors shall not, after the date of this Agreement, seek to recover against any of the Releasees on any of the Released Claims.

The Release does not settle or compromise any claim by Plaintiffs or any Class Member with any Defendant other than the PVS Defendants. The Settlement Agreement specifically reserves all rights of Plaintiffs and the Class Members against all other Defendants.

LITIGATION EXPENSES, ATTORNEYS' FEES AND INCENTIVE AWARDS

Class Counsel are not seeking attorneys' fees from the settlement funds at this time. Instead, Class Counsel intend to seek an award of attorneys' fees in the future, not to exceed 33.33% of the total settlement funds and reimbursement of out-of-pocket litigation expenses. Class Counsel in the future also intend to seek an incentive award for the Class Representatives in this action. You will receive another notice at the time that Class Counsel seeks an award of

litigation expenses, attorneys' fees and incentive awards. You will have an opportunity to object to Class Counsel's requests at that time.

THE SETTLEMENT HEARING

The Court will hold a hearing on _____2012, at 9:00 a.m. at the United States District Court, Everett McKinley Dirksen Building, 219 South Dearborn Street, Courtroom ____, Chicago, Illinois 60604, to determine whether the proposed settlement of the litigation between the Class and the PVS Defendants should be approved as fair, reasonable and adequate. The hearing may be continued without further mailed notice (but information on any rescheduled hearing will be available on the Court's ECF website under the docket number at the beginning of this Notice).

If you wish to object to the settlement, you must do so in writing. Your objection must include the caption of this litigation; must be signed; and must be sent via certified mail, return receipt requested, postmarked by _____2012, to the Clerk of Court, United States District Court, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604, and to the following counsel set forth below, via First-Class Mail, postage prepaid.

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If you do not object to the proposed settlement, you need not appear at the hearing, nor file or serve any papers.

CHANGE OF ADDRESS, ADDITIONAL INFORMATION

If this Notice reached you at an address other than the one on the mailing label, or if your address changes, please send your correct address to Class Counsel listed above.

The Settlement Agreement, the Complaint and other documents filed in this action are available for review during normal business hours at the offices of Clerk of Court, United States District Court, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604. Copies of pertinent litigation documents, including the Complaint, and the Settlement Agreement with the PVS Defendants are available at the following website: <http://www.hefflerclaims.com/cases/sul/index.html>.

If you have questions concerning this Notice or the litigation, you may contact Class Counsel for the Plaintiffs. **Please do not contact the Clerk of Court or the Judge.**

Dated: _____, 2012

BY ORDER OF:

The Clerk of Court
for the District Court for the
Northern District of Illinois